

**From:** [MacIntyre, Mark](#)  
**To:** [Charles Bert \(Bert.Charles@epa.gov\)](#)  
**Cc:** [Levy, Jeffrey](#)  
**Subject:** The Headline!!!! Ouch!!!!  
**Date:** Thursday, April 03, 2014 1:05:00 PM  
**Attachments:** [image003.png](#)  
[image004.png](#)  
[Map.pdf](#)  
[Settlement Proceeds Chart.pdf](#)  
[Final Fact Sheet 04.03.14.pdf](#)

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**From:** Gentile, Laura  
**Sent:** Thursday, April 03, 2014 12:07 PM  
**To:** PADs and Alternates  
**Subject:** DOJ press -- UNITED STATES ANNOUNCES \$5.15 BILLION SETTLEMENT OF LITIGATION AGAINST SUBSIDIARIES OF ANADARKO PETROLEUM CORP. TO REMEDY FRAUDULENT CONVEYANCE DESIGNED TO EVADE ENVIRONMENTAL LIABILITIES

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**From:** USDOJ-Office of Public Affairs (SMO) [<mailto:USDOJ-Office.of.Public.Affairs@usdoj.gov>]  
**Sent:** Thursday, April 03, 2014 3:04 PM  
**To:** USDOJ-Office of Public Affairs (SMO)  
**Subject:** UNITED STATES ANNOUNCES \$5.15 BILLION SETTLEMENT OF LITIGATION AGAINST SUBSIDIARIES OF ANADARKO PETROLEUM CORP. TO REMEDY FRAUDULENT CONVEYANCE DESIGNED TO EVADE ENVIRONMENTAL LIABILITIES  
Note: Please find related documents attached.



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**UNITED STATES ANNOUNCES \$5.15 BILLION SETTLEMENT  
OF LITIGATION AGAINST SUBSIDIARIES OF ANADARKO  
PETROLEUM CORP. TO REMEDY FRAUDULENT CONVEYANCE  
DESIGNED TO EVADE ENVIRONMENTAL LIABILITIES**

***More than \$4.4 Billion to Be Available for Environmental Clean-Up and Claims  
Largest Payment for the Cleanup of Environmental Contamination in History***

WASHINGTON – The United States has entered into a settlement agreement with the Kerr-McGee Corporation and certain of its affiliates (“New Kerr-McGee”), and their parent Anadarko Petroleum Corporation, in a fraudulent conveyance case brought by the United States and co-plaintiff Anadarko Litigation Trust (the “Trust”) in the bankruptcy of Tronox Inc. and its subsidiaries (Tronox), announced Deputy Attorney General James Cole, Acting Assistant Attorney General for the Justice Department’s Environment and Natural Resource Division Robert G. Dreher, U.S. Attorney for the Southern District of New York Preet Bharara, and U.S. Environmental Protection Agency Assistant Administrator Cynthia Giles.

The bankruptcy court had previously found, in December 2013, that the historic Kerr-McGee Corporation (“Old Kerr-McGee”) fraudulently conveyed assets to New Kerr-McGee to evade its debts, including its liability for environmental clean-up at contaminated sites around the country. Pursuant to the settlement agreement, the defendants agree to pay \$5.15 billion to settle the case, of which approximately \$4.4 billion will be paid to fund environmental clean-

up and for environmental claims. This is the largest environmental enforcement recovery ever by the Department of Justice.

“Kerr-McGee's businesses all over this country left significant, lasting environmental damage in their wake,” said Deputy Attorney General Cole. “It tried to shed its responsibility for this environmental damage and stick the United States taxpayers with the huge cleanup bill. Through a lot of hard work, we uncovered this fraud and recovered over \$5 billion dollars for the American people. This settlement demonstrates the Justice Department’s firm commitment to preventing and combating all forms of fraud and to securing environmental justice.”

“If you are responsible for 85 years of poisoning the earth, then you are responsible for cleaning it up,” said U.S. Attorney Bharara. “That’s why this case was brought. And that’s why the defendants are paying a record \$5.15 billion -- to fund that colossal cleanup and to make things right. The company tried to keep its rewards and shed its responsibilities by playing a corporate shell game, putting its profitable oil-and-gas business in a new entity and leaving behind a bankrupt shell holding the environmental liabilities of the defunct, polluting lines of business. The company tried to cleanse its valuable business from its toxic legacy liabilities. Now the defendants will pay to cleanse the land and water.”

“Today’s settlement is a just resolution of an historic injustice to the American people and our environment,” said Acting Assistant Attorney General Dreher. “The money recovered will result in clean-ups of a toxic history the Old Kerr-McGee unsuccessfully tried to walk away from.”

“EPA’s vigorous pursuit of this case will have a big return for communities across the country,” said Cynthia Giles, Assistant Administrator for EPA’s Office of Enforcement and Compliance Assurance. “Companies that pollute can’t escape their responsibility to pay for the cleanup. EPA will continue to fight for those affected by pollution.”

#### *The Fraudulent Conveyance*

According to the complaints of the government and the litigation trust created to pursue Tronox’s fraudulent conveyance claims on behalf its environmental and torts creditors and the Dec. 12, 2013, written opinion of U.S. Bankruptcy Judge Allan L. Gropper:

Old Kerr-McGee operated numerous businesses, which included uranium mining, the processing of radioactive thorium, creosote wood treating, and manufacture of perchlorate, a component of rocket fuel. These operations left contamination across the nation, including radioactive uranium waste across the Navajo Nation; radioactive thorium in Chicago and West Chicago, Illinois; creosote waste in the Northeast, the Midwest, and the South; and perchlorate waste in Nevada.

In the years prior to 2005, Old Kerr-McGee concluded that the liabilities associated with this environmental contamination were a drag on its business, the exploration and production of oil and gas. With the intent of evading these and other liabilities, Old Kerr-McGee created a new corporate entity – defendant New Kerr-McGee – and, through a scheme executed in 2002 and 2005, transferred its valuable oil and gas exploration assets to the new company. The legacy environmental liabilities were left behind in the old company, which was re-named Tronox, and spun off as a separate company in 2006. As a result of these transactions, Tronox was rendered insolvent and unable to pay its environmental and other liabilities. In 2009, Tronox went into bankruptcy.

The United States and the bankruptcy estate (now represented by the Trust) brought this lawsuit to hold the defendants accountable and require them to repay the value of the assets fraudulently conveyed from Old Kerr-McGee.

In its decision, the court found that Old Kerr-McGee transferred assets with the intent to hinder or delay creditors, in particular environmental creditors, and also transferred those assets for less than their fair value, which left Tronox insolvent, unable to pay its debts when they came due, and undercapitalized. Among other things, the court concluded that:

“[T]here can be no dispute that Kerr-McGee acted to free substantially all its assets – certainly

its most valuable assets – from 85 years of environmental and tort liabilities.”

#### *The Settlement*

Under today’s settlement agreement, the defendants will pay \$5.15 billion to the trust to settle the fraudulent conveyance case. Pursuant to a 2011 agreement between the United States, certain state, local, and tribal governments, and the bankruptcy estate, approximately 88 percent of the net proceeds of this litigation will be distributed by the trust to the United States, certain state governments, the Navajo Nation, and environmental trusts created to clean up the contaminated sites. The 2011 settlement agreement provides specific percentages of this funding that will be made available to each site.

As a result of these agreements, some of the key recoveries for environmental claims and for clean-up of environmental sites are estimated to be the following:

- \$1.1 billion will be paid to a trust charged with cleaning up two dozen contaminated sites around the country, including the Kerr-McGee Superfund Site in Columbus, Miss.
- \$1.1 billion will be paid to a trust responsible for cleaning up a former chemical manufacturing site in Nevada that has led to contamination in Lake Mead. Lake Mead feeds into the Colorado River, a major source of drinking water in the Southwest.
- Approximately \$985 million will be paid to U.S. EPA to fund the clean-up of approximately 50 abandoned uranium mines in and around the Navajo Nation, where radioactive waste remains from Kerr-McGee mining operations. Additionally, the Navajo Nation will receive more than \$43 million to address radioactive waste left at the former Kerr-McGee uranium mill in Shiprock, N.M.
- Approximately \$224 million will be paid to U.S. EPA for clean-up of thorium contamination at the Welsbach Superfund Site in Gloucester, N.J.
- Approximately \$217 million will be paid to the federal Superfund in repayment of costs previously incurred by EPA’s clean-up of the Federal Creosote Superfund Site in Manville, N.J.

Additional amounts will be paid to the United States, states, Navajo Nation, and environmental trusts for other environmental claims and contaminated sites.

The settlement agreement will be lodged with the U.S. Bankruptcy Court for the Southern District of New York for a period of at least 30 days before it is submitted for the court’s approval, in order to provide public notice and to afford members of the public the opportunity to comment on the settlement agreement.

\* \* \*

The litigation of this case was assisted by EPA personnel from around the country; the U.S. Fish & Wildlife Service and Bureau of Land Management of the U.S. Department of the Interior; the National Oceanic and Atmospheric Administration of the U.S. Department of Commerce; the U.S. Nuclear Regulatory Commission; the U.S. Forest Service of the U.S. Department of Agriculture; the U.S. Department of Defense as well as numerous state governments and the Navajo Nation.

This case was handled by Assistant U.S. Attorneys Robert William Yalen and Joseph Pantoja of the Southern District of New York, and by Alan S. Tenenbaum, Katherine Kane, Frederick S. Phillips, Marcello Mollo, and Erica Pencak of the Justice Department’s Environment and Natural Resource Division.

The consent decrees are available at the following link:

[http://www.justice.gov/enrd/Consent\\_Decrees.html](http://www.justice.gov/enrd/Consent_Decrees.html).

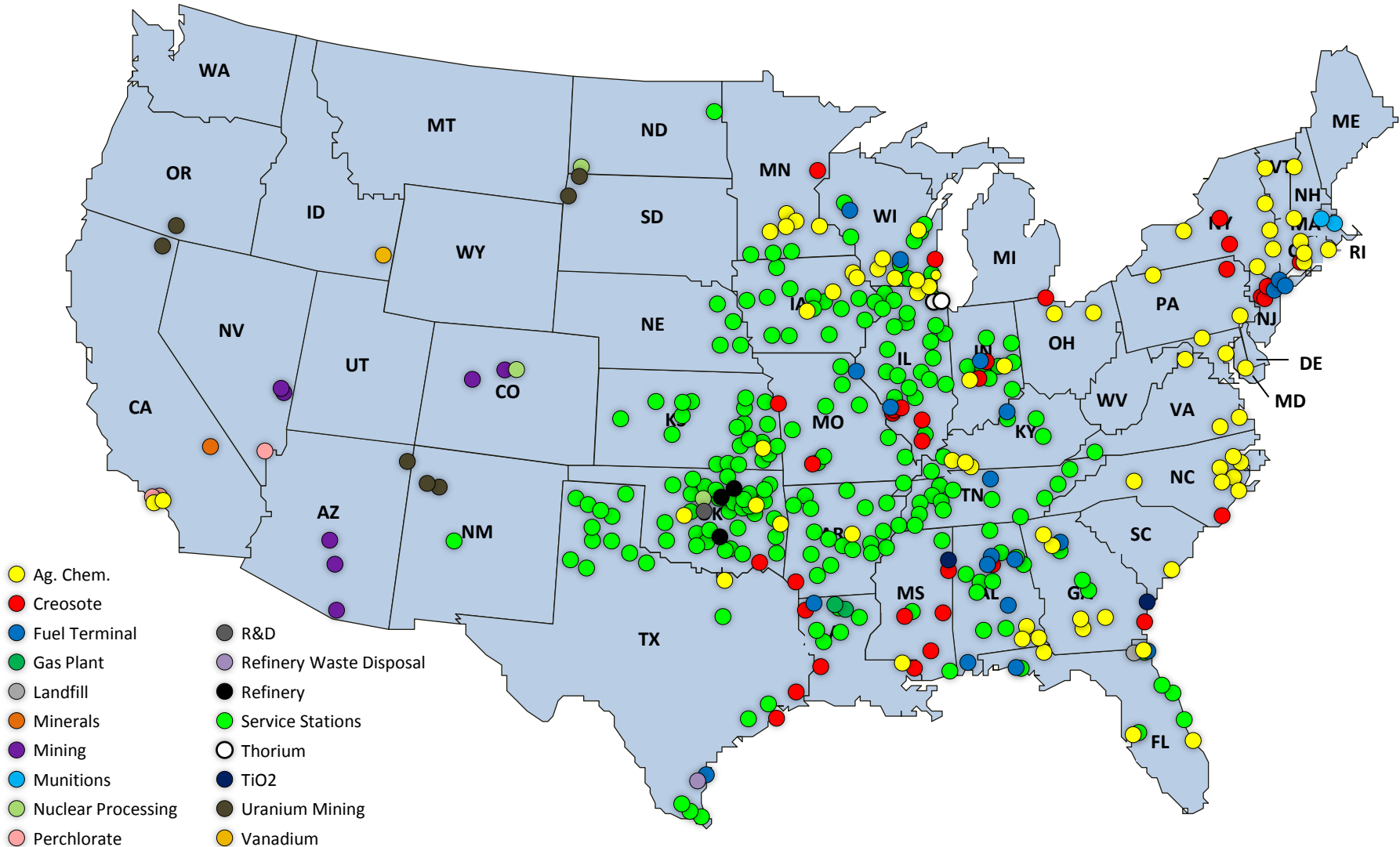
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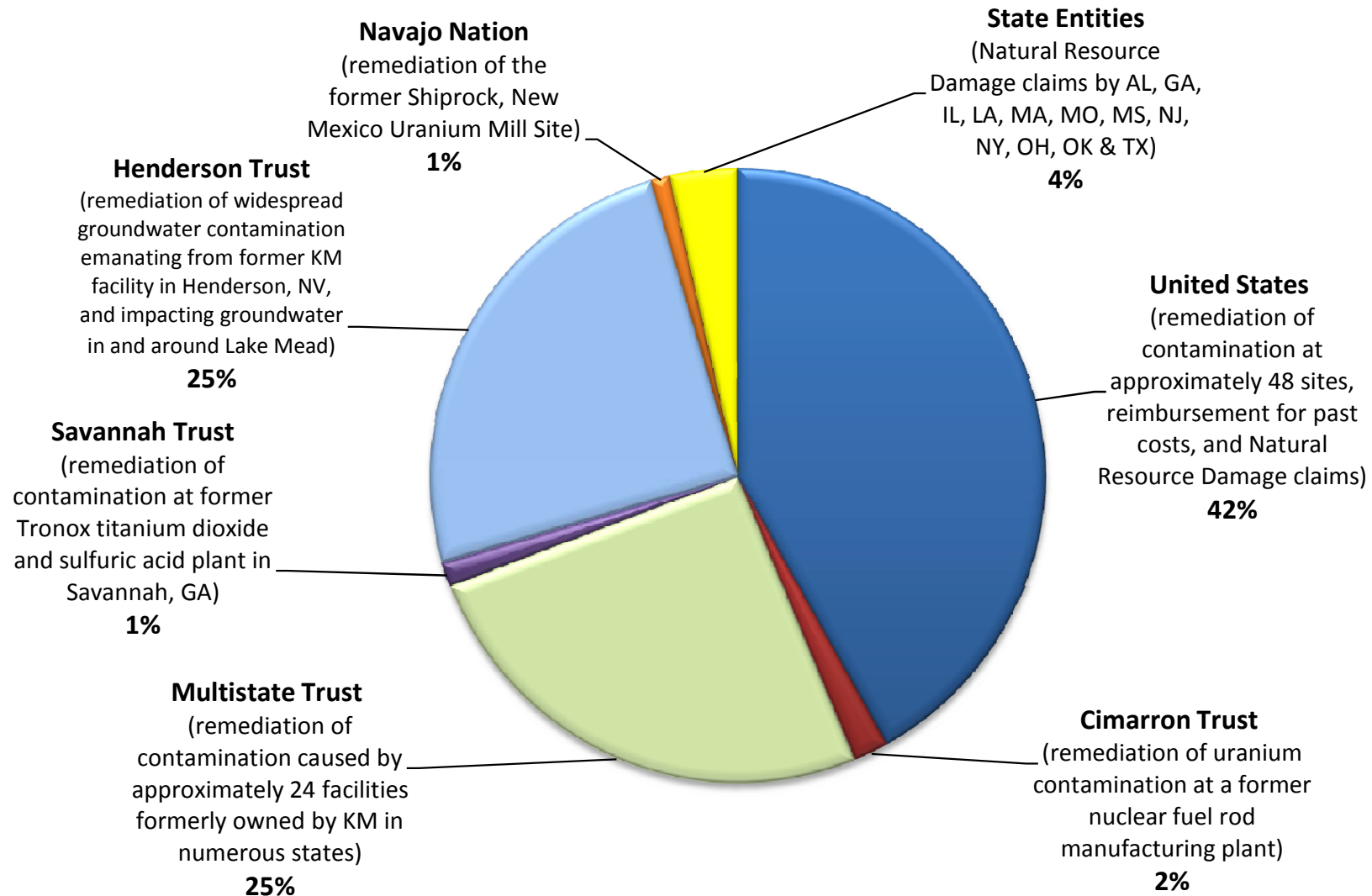
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# Kerr-McGee Environmental Sites



## ALLOCATION OF ENVIRONMENTAL SHARE OF ANADARKO SETTLEMENT PROCEEDS BY RECIPIENT (1)



(1) The environmental share of the Anadarko Settlement Proceeds is approximately \$4.4 billion

## **TRONOX BANKRUPTCY SETTLEMENT**

### **SITES AND RECOVERIES FOR CLEANUP COSTS**

#### **Henderson, Nevada – \$1.118 billion for prospective cleanup costs**

Groundwater at a former chemical manufacturing facility in Henderson, Nev., has been impacted by hexavalent chromium and perchlorate, among other contaminants, due to the manufacture of chlorates, perchlorates, and numerous other chemical products since the 1940s. The contaminant plumes have migrated towards the Las Vegas Wash, and in 1998, before the sites' groundwater treatment system began operation, the perchlorate levels in groundwater near the Las Vegas Wash were more than 5,000 times higher than the provisional drinking water standard for perchlorate in Nevada. Las Vegas Wash is a tributary to Lake Mead; Lake Mead supplies approximately 85 percent of the total water used in the Las Vegas Valley and provides municipal water supplies in Arizona, Southern California, including Los Angeles, and Southern Nevada. Currently, slurry walls, a groundwater remediation system, and extraction wells are in use at the site to contain and control the contaminant plumes; however, as of 2010, concentrations of perchlorate in groundwater still exceeded the provisional standard in some areas at the site, and in some cases by several orders of magnitude.

#### **Navajo Abandoned Uranium Mines – \$985 million for prospective cleanup costs**

Kerr-McGee left abandoned uranium mine sites, including contaminated waste rock piles, in the Lukachukai mountains of Arizona and in the Ambrosia Lake area of New Mexico. The Lukachukai mountains are located immediately west of Cove, Ariz., and are a culturally significant part of the Navajo Nation; the Ambrosia Lake area is just outside the Navajo Nation. The mining occurred from the late 1940s through the 1960s in the Lukachukai area and from the 1950s to the 1980s in Ambrosia Lake. Navajo gather plants and herbs from the Lukachukai mountains for everyday and ceremonial uses, and in the summer months, establish sheep-grazing camps there. Cove includes residences, the Cove Chapter House and the Cove School. Runoff from snowmelt in the Lukachukai mountains forms surface water features that flow past Cove and into the valley beyond. Human health risks are associated with exposure to the uranium and uranium decay products in soil, dust, air, groundwater, surface water and/or sediment and exposure pathways include: direct radiation exposure proximate to the waste rock piles; direct radiation exposure to radioactive materials used in building structures; ingestion of radiologically-impacted groundwater used for drinking water supply; ingestion of and dermal contact with radiologically-impacted surface waters; and inhalation and/or ingestion of windblown radioactive dust.

#### **Manville, NJ – \$217 million for past response costs; \$4.5 million in Natural Resource Damage penalties to be paid to New Jersey as Natural Resources Trustee**

Note that the proceeds EPA will receive for this site cover EPA's past costs expended at the Site, so while they will not address ongoing threats to human health and the environment, they will reimburse the significant response costs EPA spent at the site out of the Superfund, shifting the burden for cleanup from the taxpayers to the PRP. From 1910 until the mid-1950s, the site was used as a wood treatment facility, which occupied approximately 50 acres in the Borough of

Manville. The facility treated railroad ties and telephone poles with coal tar creosote. The excess product was discharged as creosote-contaminated sludges, sediments, process residuals, preservative drippings, and spent process liquid into canals to two lagoons located on the site. Starting in the 1960s, the facility was redeveloped as a mainly residential and commercial area. EPA response actions at the site included the clean-up of 93 residential properties and the removal of over 275,000 tons of soil. In 2002, EPA determined that it was technically impracticable to remediate groundwater to applicable cleanup standards, which entitled New Jersey to a Natural Resource Damage claim for the injury to the groundwater resource at the site.

#### **Riley Pass, SD – \$179 million for prospective work**

The site is located in the North Cave Hills area of Harding County, South Dakota, primarily on a series of bluffs within the Custer National Forest where strip mining of uranium-bearing lignite took place in the 1960s. Arsenic, molybdenum, thorium, uranium, and radium-226 are the chemicals of concern at the site. The bluffs are very steep and relatively low quantities of natural organic matter and nutrients in the area hinder the establishment of vegetation to prevent erosion of contaminated wastes (overburden and spoils piles) and their transport by wind and water. Mining spoils at the site have been a major source of sedimentation to two nearby streams, Schleicht Draw and Pete's Creek.

#### **Chicago (Lindsay Light Removal Sites, Streeterville Rights-of-Way, and DuSable Park) – \$119 million for prospective work**

Beginning in 1904 and continuing through the mid-1930s, the Lindsay Light Chemical Company processed ore to extract radioactive thorium and manufactured gas mantles containing radioactive thorium at three locations in an area in downtown Chicago known as the "Streeterville Area." (Lindsay Light merged with American Potash & Chemical Corporation, which was acquired by Kerr-McGee.) The process of gas mantle manufacturing involves dipping gauze mantle bags into solutions containing thorium nitrate and small amounts of cerium, beryllium and magnesium nitrates; the principal ingredient in thorium nitrate is radioactive thorium (thorium-232), which emits alpha, beta, and gamma radiation. The thorium processing and gas mantle manufacturing activities produced thorium-contaminated material, and the material was used as fill in construction activities on neighboring properties in the area, and in utility installations in the City-owned street and sidewalk rights-of-way, leading to significant offsite spread of the contamination throughout the Streeterville Area.

#### **Columbus, MS – \$67 million for prospective work**

The site is a former wood treatment facility, which began operations in 1928. Kerr-McGee purchased the facility in 1964 operated it until its decommissioning in 2003. At the facility, wood products were treated with creosote, coal tar, and, until 1976, pentachlorophenol. Open ditches were used by Kerr-McGee for years to transport surface water runoff from the site to Luxapilila Creek; the ditches lie within the 100-year flood plain and during numerous floods throughout the years, overflowed their banks, spreading creosote contamination and polyaromatic hydrocarbons offsite and into the neighboring yards of residents. (One of the ditches traverses the property of the Maranatha Faith Center, where creosote contamination was found during construction activities.) Kerr-McGee also operated two hazardous waste surface impoundments at the facility, as part of an industrial wastewater treatment system. Creosote



contaminants have also been found in groundwater at the site. The site has been the subject of CERCLA response actions and RCRA corrective actions.